

Creating A New Ethical Culture In The South African Local Government

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Abstract

The new democratic government after 1994 ushered a new political structure and governance of public service in South Africa. The appointment of local government officials preceded the formation of local government with more expectations from the nation to adequately address the imbalances of the past and deliver services to communities in an ethical and democratic manner. The impact of ethical conduct of local officials on decision making is considered to have great potential on political power and public rights on access to the decision-making process. This article assesses the potential of creating an ethical environment in the local governance, by recognizing work culture as one of employees' determinants and attributes in local government. The promotion of professional service ethos within the South African local government manifest as acceptable behavior promulgated by laws and prescription, code of conduct and culture. The Proposed mechanisms for creating an ethical culture and environment encompass legislative and policy requirements, whistle-blowing, codes of conduct and values, ethical awareness at the work place and formal mechanisms. Findings and deliberations drawn from this article are useful in addressing perceived unethical behavior in local government and contribute towards promotion of good governance and public sector ethics.

Key words: Culture, ethics, good governance, local government, service delivery.

Introduction

Governments all over the world are compelled to promote ethics in decision-making while discharging their duties and responsibilities in organizations reflected by organization's well-defined value system. Alongside with the New Public Management (NPM), government functions and administrative concepts have been changed and ethical consideration is regarded as the main trend in worldwide discourse of administration reforms. In the context of the study, ethical considerations are aiming at curbing and correcting corruption and maladministration in the South African public service. Corruption and unethical behavior can weaken democracy, impact on economies; impede public service reforms and development efforts in South Africa. The society looks upon the government to develop mechanisms for

fostering an ethical culture that will restore public trust on government.

Today's public managers face increasingly complex ethical dilemmas, having to respond to the expectations of the media and society while creating a service orientated local government. The South African Constitution mandates public officials to refrain from the abuse of public trust and conduct themselves in an ethical and respectable manner. This paper seeks to assess how public officials can create an ethical work environment at local level in South African. Using a qualitative approach, the article critically reviewed and analyzed literature in various secondary sources with the intention of recommending mechanisms for creating an ethical environment based on the legislative mechanisms, statutory guidelines and codes of conduct, guiding values and governance, awareness and training and formal mechanisms.

Similarly, critical issue in local government revolves around the moral dilemma in choices and value judgment of officials and politicians while they are discharging their duties. Government departments and agencies adapt to changes emanating from socio-economic, and political turbulent environments. Sometimes their vulnerability can test the tolerance of normative guidelines and values in the broader society. The founding principles of democracy enshrined in the Constitution (Act 104, 1996) provides for ethical foundations on protection of human rights such as right to information, freedom of speech, freedom of media, freedom of movement and association. Some of the diverse challenges confronting local governance in South Africa relates to the infringement of these rights associated with lack of ethical behavior by the political and public officials. Any failure to recognize a moral dimension in the eyes of the public can be reflected as abuse of public trust, poor service delivery, lack of commitment, less responsiveness and accountability. This article assumes that local officials and political office bearers have a responsibility to contribute towards the creation of ethical culture when discharging public duties and uphold the rule of law.

The recent municipal service protests are reflected as a source of conflict when local government officials allegedly failed to discharge their duties and have abused public trust. On several occasions Local councilors are constantly confronted with grievances from community members due to their failure to discharge duties in a responsible manner. Some communities in South Africa are full of despair, claiming that local officials are failing to address the imbalances created by the apartheid government; the playing field is not leveled yet. The government is unable to cope with the escalating needs and demands of basic needs like water, housing, sanitation, safety and, roads construction and maintenance, electricity in urban and rural areas.

Ethics can be viewed in an organizational and individual theoretical and practical context. The dilemma of municipalities to fully realize the significance of creating an ethical culture can relate to the economic problem; where the basic needs of communities cannot match the available resources to necessitate the provision of municipal services. Some municipalities are grappling with transformation since the

inception of Democracy in 1994 while have limited constitutional autonomy and financial base to perform and operate in an ethical way. They rely mostly on national and provincial government for financial support. Furthermore, local government operates in a turbulent and unstable political environment that makes them to be vulnerable for indulging in unethical behavior when discharging their duties.

However, the constitutional mandate of municipalities is to make by-laws and render services within areas of their jurisdiction and provide a platform to create democratic spaces and engage in development efforts. This study set out the strategies of creating an ethical culture with the intention to broaden the prospects of practicing good governance and improved service delivery in local governance. The assumption for this study is that 'as the ethical climate in local government becomes stronger, the values and quality in performance of the workers will be strongly supported'.

Conceptualising ethics

The concept of ethics is derived from Greek term 'ethos' which means the characteristic spirit of a culture, inner disposition or 'morality' (Oxford Dictionary, 2002: 397). Ethics can be defined as a moral system of a particular school of thought. Ethics has to do with the application of moral values to people's behavior. This study locates debates on public service ethics in the context of public service praxis. From the origin of Aristotle, ethics are regarded as a moral virtue which could be instilled in individuals through practice and learning (Grint, 2007:238). Aristotle acknowledges the role nature in developing certain characteristics in man, which are more a way of life –grounded in a system of rules and principles. Similarly, this discourse of virtue propels public officials to be obliged by motives of duty and moral standards by considering the principles of accountability, responsiveness and commitment to public service duties. The futility of relying solely on compulsion to produce virtue becomes even more apparent when one considers that there is an obligation in a public official to be sure that his actions appear ethical.

Machiavelli (1469-1527) became the most quoted and interpreted policy analyst that has developed a set of principles for his prince, as axioms of those who obtain and hold power. Machiavelli represents pessimism about people in power, be the prince or the public administrator. He defended the lies of public officials by claiming that they lie in order to restore and maintain societal order. Machiavelli's theory of lying was regarded as ethical because the lying was for the good cause of the state. It was also a testament of Pluto's noble lie from Book 3 of Republic, in which he argue that the guardians of the society may put forth untruths necessary to maintain social order (Shafritz, 2011: 173). Beside the discourse of lie, honor precedes ethics because absence of honor cannot be regarded as ethical. Honor has a contextual significance to those who uphold it; it is always influenced by their prevailing organizational and political environment. Public officials are honorable when acting patriarchal as patrons, and when they uphold power because of the office they occupy

such as Council, Board, and Commission of inquiry.

Similarly, the duty of public officials is to conduct one's office not only with honor but also with perceived honor. Ethics of bureaucracy imply that administrative officials inevitably confront ethical issues because they have significant administrative discretion, and the guidelines for their ethical choices ought to be derived from the core values of the society, as presented by the constitution. Operating within an organization imposes certain loyalties and obligations upon local officials; such as exercise of power while discharging their duties. They need to adhere to consistent standards of morality that are responsive to their political environment, and as prescriptions of their local office. The development of socio-political ethics in South Africa has undergone a significant transformation. Up to date, there is no uniform code of ethics for Local Government, except municipal handbook as relevant schedules to guide councilors and municipal officials. It can be deduced that code of ethics can be conceptualized within the discourses of virtue, morality and code of conduct. These discourses contribute towards clarification of right and wrong-doing.

However, the term ethical culture is associated with routine trends to instill culture in an organization or agency. In a strong ethical culture, ethical values and conduct matter and the actions of employees, company policies and procedures, decisions about rewards, who gets punished, and appraisals is far more important. In a “weak” ethical culture, ethical values aren't promoted and “getting the job done” is far more important than getting the job done in the ethically *right* way. Basically, the strength of local government's ethical culture is the extent to which the organization ethics is a priority.

Ethical Dilemmas In Local Government

Corruption, Mal-administration and Abuse of Trust

Discussions on corruption and mal-administration in South African public service have been a bone of contention, where some of scholars in the field of local government and public management cited corruption as one of major concerns that impede on the progress of good governance (Kanyane, 2005; Sindane, 2007; Naidoo, 2012). It has been noted that in the absence of ethical culture probability for corruption and mal-administration can be consumed in high levels. Local officials are confronted by a wide variety of ethical issues and dilemmas. Currently, the Department of Provincial and Local Government (DPLG) is entrusted with the oversight and facilitation of the Anti-corruption strategy as a response to address the escalating corruption in the South African local government.

The most prominent dilemmas in the South African local government include the abuse of public trust, mal-administration and corruption. The abuse of public trust include lying and other forms of deception, abuse of authority by officials and councilors, fraud and harassment of staff members and clients/ public. The administrators are always tempted with gifts from their constituencies and the public. Their personalities and act of immorality is always reflected as bad by the media and

the society when they accept those gifts and fail to declare them to their offices, and when they are lie. During elections, it is common for municipal candidates to deceive and misrepresent their constituencies' on policy options aiming at solving societal problems. Society can accepts lies when they are not aware because they trust their representatives, but they also don't respect lies and the lying person, hence resort to anger and frustration.

Another set of ethical dilemma is portrayed through mal-administration and corruption. According to Ababio & Doorgapersad (2010, 412) corruption symbolizes any conduct or behavior in relation to persons entrusted with responsibilities in public which violates their duties as public officials on obtaining undue gratification of any kind of others. Scandals and bribery in public service reflect corruption. When a public officials misuses his or her office for self-gain, they pose threat to democracy and the rule of law. Corruption also undermines economic right, where public officials can accept gifts and money in order to do their job. This is reflected in supply –chain management where public officials in local government fail to comply with supply-chain management procedures and procurement policies in the tender process and during procurement (AGSA, 2011). Therefore, the other competitors have no right to a fair and impartial bidding process that has been abridged. Bribery supplements salaries of those holding power to the bidding system and the supply-chain management. Gildenhys (1991:42) notes transgression of law as an excellent example of maladministration, and may rise from the followings:

1. A failure to carry out duty imposed by law;
2. Actions which go beyond the powers conferred by law or regulations,
3. The use of delegated authority (power) for the purpose in which it was not intended, and
4. Actions, which do not follow a procedure, laid down by law, aimed at preventing arbitrary or unreasonable decisions in the application of legal powers. However, maladministration should be questioned by looking not only at the personality of the individual which is acting unethical, but should also question the efficacy of the law.

Creating An Ethical Culture In Local Government

1. Legislative mechanisms

The South African government promulgated the Protected Disclosure Act (26 of 2000) to encourage disclosure of informing concerning wrong-doing in public service, and to provide protection from recrimination for employees and citizens who whistle-blow about the wrong-doings. Whistle blowing is a person who discloses legal violation, mismanagement, a gross waste of funds, and abuse of authority, or a danger to public health or safety, whether the disclosure is made within or outside the chain of command. According to Holtzhausen (2007:131) different people have their own particular motives for blowing the whistle, but what they do tend to have in

common is recognition that it would be morally wrong not to blow the whistle on perceived wrongdoing. A series of scandals involving bribes, misuse of public funds during elections, illegal soliciting of information by recording e-mail messaging and cell-phone conversations, misuse of government vehicles by local office and service, illegal awarding of tenders by local officials and misuse of public funds to facilitate service delivery have been reported by the media. Uys (2008) affirms that whistle-blowing often pays heavy price for exposing what they perceive to be organizational wrong-doing. Once the whistle has been blown, preferably through internal channels or through investigating journalism, government investigating units and prosecuting bodies often respond to start the process of the Rule of Law.

2. Statutory Guidelines and codes of conduct

Instilling an ethical culture involves a greater devolution of responsibility and discretion of Public Servants, budgetary pressures and new forms of delivery. There is no uniform code of ethics for Local Government, but the relevant schedules to guide councilors and municipal officials are provided by the Municipal systems Act, (32 of 2000) and the municipal hand-book. The South African Constitution (1996) also serves as a guide for the operation of the municipal officials to uphold the Bill of Rights, Principles of Co-operate Government and Inter-governmental relations. Public officials are expected to know and understand basic principles and standards they are expected to apply at work. There is a need for a clear demarcation of their work and where the boundaries of accepted behavior reside. These principles should be explained, shared in meetings and work-shops and be updated from time to time.

Section 195 of the Constitution of the Republic of South Africa 1996 indicates that Public Administration must be governed by democratic values and principles, such as:

- The promotion of a high standard of professional ethics;
- The promotion of efficient, economic, and effective use of resources;
- That transparency must be fostered by providing the public with timely, accessible and accurate information; and
- That public administrations must be accountable.

The *Public Finance Management Act, 1999 (Act 1 of 1999)* (PFMA) introduced Tender Boards to help monitor the activities supply chain management departments. The medium-term expenditure framework (MTEF) also compels national government departments to budget within strategic goals. In this regard, local officials are also expected refrain from accepting gifts and bribes. Ethical guidance at local level should also be available through mentoring programmers; where senior officials mentor their sub-ordinates and other colleagues at work through various processes and procedures. Similarly, good governance implies that organizations should develop codes of ethics as part of their corporate governance frameworks. Local government employees are expected to abide by the Code of Conduct for

Municipal employees, whilst councilors in municipalities are expected to abide by the Code of Councilors in provided by the Systems Act. The Code of Conduct for Municipal staff (Annexure A of the Systems Act) is categorized according to the following areas such as the general conduct, commitment, serving the public interest, personal gain, disclosure of benefits, unauthorized disclosure of information, undue influence, rewards, gifts and flavors, council property, payment of arrears, participation in elections, sexual harassment, reporting duty of staff members, and breaches of code.

3. Guiding values for ethical conduct

The origin of foundations of values in South Africa originates from democratic values bestowed by the Constitution (1996). According to Section 195 of the Constitution (1996), some of the basic values and principles governing public institutions include accountability, impartiality, development orientation, representation and participation, fairness, public accountability, effectiveness and efficiency and professional ethics. The inception of democratic values implied more responsibility of local officials and political appointees to uphold democratic principles in a responsible and responsive manner. Local government officials are expected to commit to democratic values when serving the people; the rewards can be reflected later through the quality goods and services delivered to communities.

4. Ethical awareness and training at the workplace

There is a need to create ethical awareness at the work-place; where local officials can arrange awareness campaigns on ethical issues that can be implemented through training development programs. It is imperatives for senior managers to benchmark for performance indicators to achieve accuracy and efficiency afterwards. A voluntary ethical survey can be accomplished effectively by surveying all employees at different levels. Results after data collection should be shared with the participants.

Ethics training for all levels of the work-force is necessary to ensure that everyone with the same principles is knowledgeable with resources to respond to ethical dilemmas. The design of training is critical in addressing the needs of different levels of employees and specific responsibilities of their positions, without diverting from the mission and the vision of their organization. Successful ethics training requires the support of executive management. Constant monitoring and evaluation of training programs can yield better results. An organizational environment of ethics can also be created where high standards of conduct are encouraged by providing appropriate incentives for ethical behavior, such as adequate working conditions and effective performance assessment.

5. Formal mechanisms

Section 188 (1) of the South African Constitution (1996) provides for the duties of the *Auditor General* (AD); as to audit and report on the accounts, financial statements and financial management of all national and provincial state departments and administrations. Cloete & Thornhill (2012, 46) assert that the AD provides control functions in public sector, where all the financial activities of the various institutions in all spheres of government and reports are audited and reported by the AD office. Ethics can be therefore instilled as preventive measure and also to rectify mistakes or corruption reported by the AD. The AD office encourages municipalities in South Africa to comply with the Public Financial Management Act (2001), the Treasury Guidelines and the Audit standards in order to obtain clean audit reports. At the moment, municipalities are grappling with change by responding to their audit reports. Out of all the municipalities in South Africa, only 3% of them were able to get clean audit in 2010-2011 (AD report, 2010-2011).

Similarly, the *Standing Committee on Public Accounts* (SCOPA) is considered to be the most influential committee of Parliament as it examines the annual reports of the AG on the financial affairs of the public institutions including local government. The SCOPA has a duty to investigate whether the state funds are in fact spent lawfully and are legally appropriated on the budget. In this manner, SCOPA plays an important role to ensure accountability and transparency exists in state departments. The South African Constitution (1996) provides for the duties of the *Office of the Public Protector (OPP)* regarded as the Ombudsman; to investigate on the alleged corruption and conduct of officials reported for investigation in the public administration, at all spheres of government, that is alleged or suspected to be improper or to result in any impropriety or prejudice, and advise the President on the matter. It is the duty of the President to decide on the way forward. However, the OPP success on uprooting corruption depends on its capabilities (resources) and abilities to be accessible and operate and the support from public department and the president. So far, the current OPP has made progress in investigating corruption cases of alleged department and public officials in as far as abuse of public trust, bribery, illegal awarding of tender by local officials, unethical behavior and mal-administration in public sector.

The enforcement and investigating agencies are also mandated by law to investigate and prosecute (where necessary) public officials involved in wrongdoings, fraud and corruption. These institutions include the Public Service Commission, South African Revenue Services, South African Police, National Prosecution Authority (NPA), Special Investigation Unit, National Intelligence Agency and the Anti-corruption Coordinating Committee. The constitution grants the President of South Africa prerogative powers to appoint these bodies and decide to act on the advice when necessary.

Implications for service delivery

Law and regulations such as the Batho Pele principles (adopted from the Public Service Act 147 of 1999) state the fundamental values of public service and the broader community, and how local officials should provide services to the communities in a responsible and accountable manner. The moral conduct of local government officials and employees has a direct influence on their position and work as municipal officials and councilors in the community they serve. Their knowledge and application of ethics leads to better decision-making on allocation of resources for their municipalities. Ethics and Batho Pele Principles are essential for providing better services to the communities, in conjunction with the principles and values of public administration such as accountability, transparency, responsiveness, value for money and responsibility.

Despite mechanisms to prevent and curb corruption in the S.A. public sector, there are still pockets of corruption in the South African local government. There is a need for trusted local government leadership that can act as custodians of ethical conduct to uproot corruption and maintain good principles of governance while entrusted with state resources. This article examined corruption and its effects on good governance in the S.A. public sector. The article identified ethical awareness and recognized the critical need for ethical leadership to curb corruption and promote good governance in S.A. It is evident that ethical leadership is necessary for successful creation of ethical culture and promotion of good governance. However, the elements of good governance can be hampered by several elements of unethical behavior such as political corruption, non-compliance to law and code of conduct, corruption, maladministration and others.

Conclusions And Recommendations

This article canvasses for an ethical culture and environment that can be instilled through code of ethics, statutory mechanisms and formal institutions in the South African local government. Good ethical culture can focus on the actions of local officials that result on right doing for right reasons. Ethical behavior and ethical codes can allow councilors and public officials to test their actions against expected standards; with reasonable justification of their discretion and moral autonomy in decision-making. Repeated over time, ethical habits becomes inculcated in the individual and ingrained in the organization. Ethical culture can result to saving costs on supply chain and contracting or procurement where officials are cumbersome to exercise fairness, accountability, reasonableness responsibility in order to achieve efficiency in their organizations.

Recommendations

It is evident that successful eradication of corruption and promotion of good governance therefore depends on awareness and training of public officials, ethical leadership, combined with policies and procedures designed to ensure compliance

with specific laws and regulations and basic internal control. All employees, councilors and stakeholders are expected to be ethical aware to comply with the applicable policies and procedures. A fundamental risk in this area is a lack of knowledge and awareness; hence it's imperative for senior managers to arrange for continuous training and effective awareness campaigns regarding existing policies and procedures for ethical codes. To maintain sustainable ethical culture, reviews and evaluation of the systems, performance rewards, policies and procedures must be conducted in conjunction with financial and human resource systems to promote the organizational integrity. Any transgression and non-compliance of these systems by the employees could seriously impact on the progress for instilling an ethical culture; hence each municipality should develop correction plan and sanctions or disciplinary hearings to address that.

Government officials in local government and public agencies should change their mind-set and realize the importance of administrative ethics. Effective administrative systems can be envisaged through supervision and mentoring programs. Employees must also do site visits and learn from other municipalities in Africa and overseas on ethical networking and perfect training systems. Continuous improvement of appraisal systems can widely publicize ethos when differentiation between right-doing and wrong-doing is reported. Public servants cases on best achievement can educate others on performance improvement through organizational integrity.

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